

## ZONING CHANGE REVIEW SHEET

**CASE:** C14-2010-0034 – Stonegate Two

**Z.A.P. DATE:** August 3, 2010  
August 17, 2010

**ADDRESS:** 2500 West William Cannon Drive

**OWNER:** KC 1 Stonegate L.P.  
(John P. “Sean” Cummings, Jr.)

**AGENT:** Jim Bennett Consulting  
(Jim Bennett)

**ZONING FROM:** LO-CO

**TO:** LO-CO, to change a condition of zoning

**AREA:** 8.21 acres

### **SUMMARY STAFF RECOMMENDATION:**

The Staff's recommendation is to grant limited office – conditional overlay (LO-O) combining district zoning. The Conditional Overlay prohibits access to Aldford Drive and limits the number of daily vehicle trips to 2,509.

If the requested zoning is recommended for this site, then Staff recommends a Restrictive Covenant to include all recommendations listed in the Traffic Impact Analysis memorandum, dated July 8, 2010, as provided in Attachment A.

### **ZONING AND PLATTING COMMISSION RECOMMENDATION:**

August 3, 2010: *APPROVED A POSTPONEMENT REQUEST BY THE NEIGHBORHOOD TO AUGUST 17, 2010.*

*[D. TIEMANN; C. BANKS – 2ND] (6-0) T. RABAGO – ABSENT*

August 17, 2010: *APPROVED LO-CO DISTRICT ZONING TO CHANGE A CONDITION OF ZONING, WITH A RESTRICTIVE COVENANT FOR THE TRAFFIC IMPACT ANALYSIS, AS STAFF RECOMMENDED.*

*[G. BOURGEOIS; T. RABAGO – 2<sup>ND</sup>] (6-0) P. SEEGER – ILL*

### **ISSUES:**

At the time the property was rezoned to LO-CO in September 1996, the property owners entered into a private Restrictive Covenant with the Southwest Austin Neighborhood Association. The covenant generally covers property use, construction standards and restrictions, and includes a provision that no buildings may exceed one story or 18 feet in height. Attic spaces have been built and are used for storage purposes and mechanical equipment. A copy of the private Restrictive Covenant is provided as Attachment B.

**DEPARTMENT COMMENTS:**

The subject property consists of one platted tract that takes access to West William Cannon Drive and was recently developed with a mixture of medical and professional office, although not all of the available space has been leased. The property was rezoned to the limited office – conditional overlay (LO-CO) combining district in October 1996. As shown in Exhibit D, the Conditional Overlay limited the number of daily vehicle trips to 2,000 and prohibited vehicular access from the property to Aldford Drive.

There is a duplex development under construction and single family residences within the Cherry Creek Phase 3, Section 3 subdivision to the north (SF-3; SF-2), duplexes and townhomes to the east (SF-3; LO-MU-CO); a medical and professional office development to the south (LO-CO), and offices and apartments to the west (LO; MF-2). Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).

Although no additional building square footage is proposed, the offices are approximately 50 percent occupied and due to the higher rate of medical office occupancies, the development is on pace to exceed the 2,000 vehicle trip limit contained in the Conditional Overlay. Therefore, the Applicant has submitted a rezoning case with a Traffic Impact Analysis as the basis for modifying the Conditional Overlay to remove the 2,000 trip limit and increase the number of vehicle trips per day. The proposed figure of 2,509 vehicle trips per day accounts for a mix of up to 85% medical office and up to 15% professional office space. The other item contained in the Conditional Overlay that prohibits access to Aldford Drive would remain unchanged.

Following an evaluation of the Applicant’s traffic impact analysis, the Staff recommendation contained in Attachment A includes increasing the number of daily vehicle to 2,509 with the requirement to post fiscal surety for the pro rata share of an additional east bound left turn lane at the West Gate Boulevard / West William Cannon Drive intersection. The number of daily vehicle trips and intersection improvements from this development will maintain acceptable traffic conditions on adjacent roadways and intersections, and therefore, the Staff recommends the Applicant’s request.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	LO-CO	Medical office and office development
<i>North</i>	SF-2; SF-3	Single family residences
<i>South</i>	LO-CO	Medical office and office development
<i>East</i>	SF-3; LO-MU-CO	Duplexes; Townhouses
<i>West</i>	LO; MF-2	Office; Apartments

**AREA STUDY:** N/A

**TIA:** Is required – please refer to Attachment A

**WATERSHED:** Williamson Creek

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** No**SCENIC ROADWAY:** No**NEIGHBORHOOD ORGANIZATIONS:**

12 – Brodie Lane Homeowners Association  
 461 – Cherry Creek Neighborhood Association  
 511 – Austin Neighborhoods Council                      627 – Onion Creek Homeowners Association  
 742 – Austin Independent School District  
 786 – Home Builders Association of Greater Austin  
 790 – Cherry Creek Village Neighborhood Association  
 943 – Save Our Springs Alliance                      997 – Tanglewood Oaks Owners Association  
 1037 – Homeless Neighborhood Association    1075 – League of Bicycling Voters  
 1113 – Austin Parks Foundation  
 1134 – Oak Parke / Brodie Wild Preservation Group, Inc.  
 1200 Super Duper Neighborhood Directors and Appealers Organization  
 1224 – Austin Monorail Project                      1228 – Sierra Club, Austin Regional Group  
 1236 – The Real Estate Council of Austin, Inc.

**SCHOOLS:**

Cunningham Elementary School      Covington Middle School      Crockett High School

**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-2208-0142 – 6800 Manchaca Road	SF-3 to GR-CO for Tract 1, LO- MU-CO for Tract 2, as amended	To Grant GR-CO for Tract 1, LO-MU-CO for Tract 2, with the CO for a list of conditional and prohibited uses, and 2,000 trips per day, and additional r-o-w on Manchaca Road	Approved as Commission recommended (11-20- 08).
C14-2007-0064 – Laurel Meadows – South terminus of Blarwood Drive	SF-3 to MF-5	Applicant requested an indefinite postponement; Case expired	N / A
C14-96-0067 – Ford Tract South – West William Cannon Drive, between Westgate Boulevard and Whispering Oaks Drive	SF-3 to LO-CO	To Grant LO-CO	Approved LO-CO with CO prohibiting access to Watchwood Drive and limiting development to 2,000 trips per day (9-26-96).

**RELATED CASES:**

As shown in Exhibit B, the Applicant's property is platted as Tract II, Block B, Lot 1 of The Arbors at Cannon's Gate, a subdivision recorded in July 2002 (C8-01-0264.0A).

The site plan approved on June 4, 2007 is for eight buildings and totals 71,697 square feet of gross floor area (SP-06-0462C). Please refer to Exhibit C.

A previous rezoning case from SF-3 to LO-CO was approved on October 3, 1996 (C14-96-0068). The Conditional Overlay limited the property to 2,000 trips and prohibited vehicular access to Alford Drive. Please refer to Exhibit D.

**ABUTTING STREETS:**

Name	ROW	Pavement	Class	Sidewalk?	Bus Route?	Bike Route?
West William Cannon Drive	120 feet	MAD 4	Arterial	Yes	103, 333	Yes

**CITY COUNCIL DATE:** August 26, 2010

**ACTION:**

**ORDINANCE READINGS:** 1<sup>st</sup>

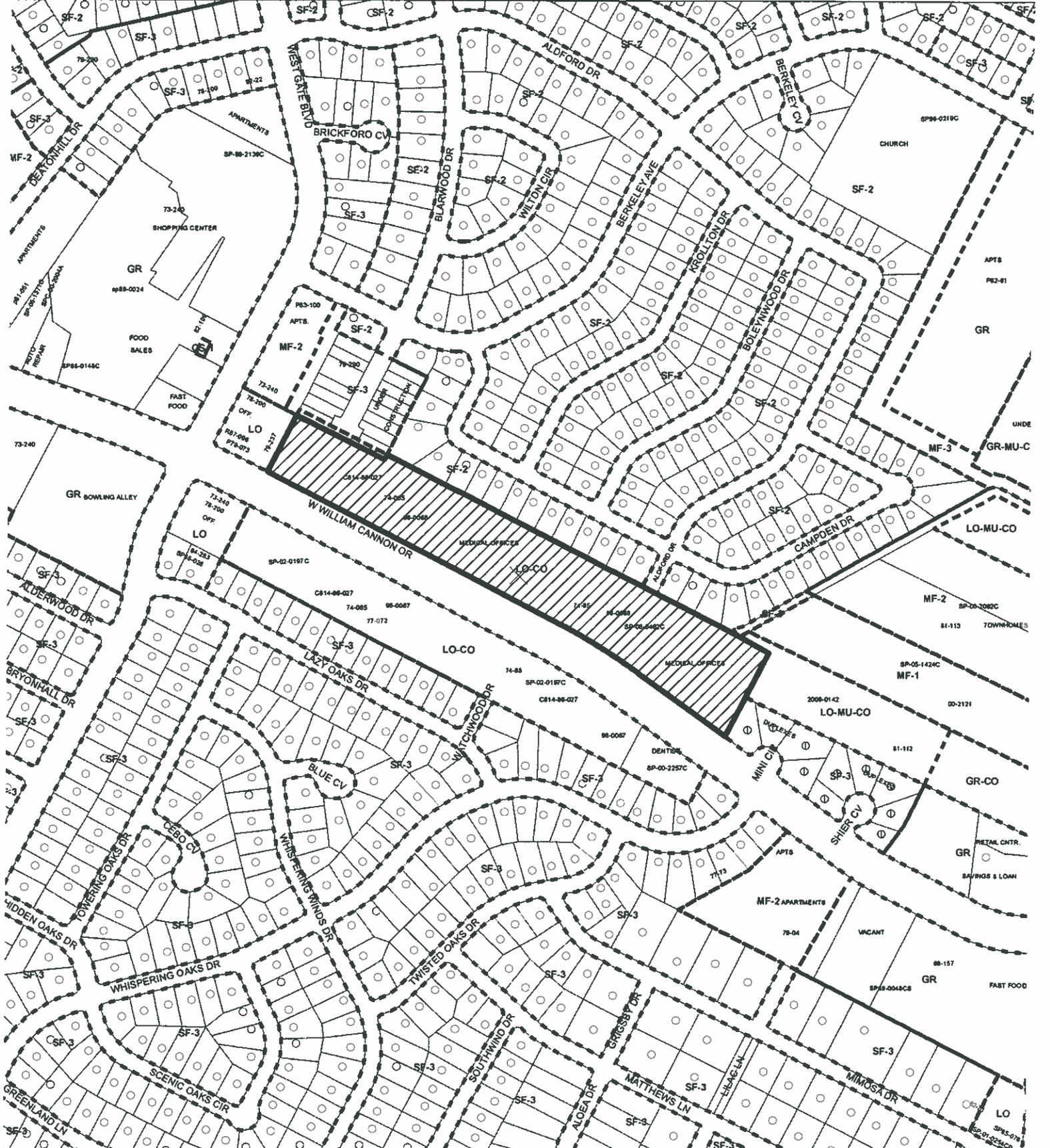
2<sup>nd</sup>

3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Wendy Rhoades  
e-mail: wendy.rhoades@ci.austin.tx.us

**PHONE:** 974-7719



**ZONING**

*Exhibit A*

ZONING CASE#: C14-2010-0034  
 LOCATION: 2500 W WILLIAM CANNON DR  
 SUBJECT AREA: 8.21 ACRES  
 GRID: E17 & F17  
 MANAGER: WENDY RHOADES

-  N
-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

1" = 400'

This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.









**ORDINANCE NO. 961003-E**

**AN ORDINANCE REZONING AND CHANGING THE ZONING MAP ACCOMPANYING CHAPTER 13-2 OF THE CITY CODE AS FOLLOWS:**

**8.211 ACRE TRACT OF LAND OUT OF THE THEODORE BISSELL LEAGUE IN TRAVIS COUNTY, TEXAS FROM "SF-3" FAMILY RESIDENCE DISTRICT TO "LO-CO" LIMITED OFFICE DISTRICT-CONDITIONAL OVERLAY COMBINING DISTRICT, LOCALLY KNOWN AS THE PROPERTY LOCATED AT WEST WILLIAM CANNON DRIVE AND WESTGATE BOULEVARD, IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** The Zoning Map established by Chapter 13-2-22 of the City Code is amended to change the base zoning district from "SF-3" Family Residence district to "LO-CO" Limited Office district-Conditional Overlay combining district on the property (the "Property") described in File C14-96-0068, as follows:

8.211 acre tract of land out of the Theodore Bissell League in Travis County, Texas, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance,

locally known as the property located at West William Cannon Drive and Westgate Boulevard, in the City of Austin, Travis County, Texas, and as more particularly identified in the map attached as Exhibit "B".

**PART 2.** The Property within the boundaries of the Conditional Overlay combining district established by this ordinance is subject to the following conditions:

1. Notwithstanding any other provision of the Land Development Code applicable to the Property on the effective date of this ordinance or at the time an application for approval of a site plan or building permit is submitted, no site plan for development of the Property, or any portion of the Property, may be approved or released, and no building permit for construction of a building on the Property, shall be issued if the completed development or uses authorized by the proposed site plan or building permit, considered cumulatively with

all existing or previously authorized development and uses of the Property, generates traffic exceeding the total traffic generation of 2,000 vehicle trips per day.

2. There shall be no vehicular access from the Property to Alford Drive. All vehicular access to the Property shall be from other adjacent public streets or through other adjacent property.

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the "LO" base district and other applicable requirements of the Land Development Code.

**PART 3.** The Council waives the requirements of Sections 2-2-3, 2-2-5, and 2-2-7 of the City Code for this ordinance.

**PART 4.** This ordinance takes effect on October 14, 1996.

**PASSED AND APPROVED**

October 3, 1996.

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§  
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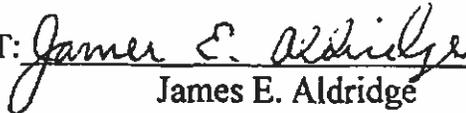
Bruce Todd  
Mayor

APPROVED:

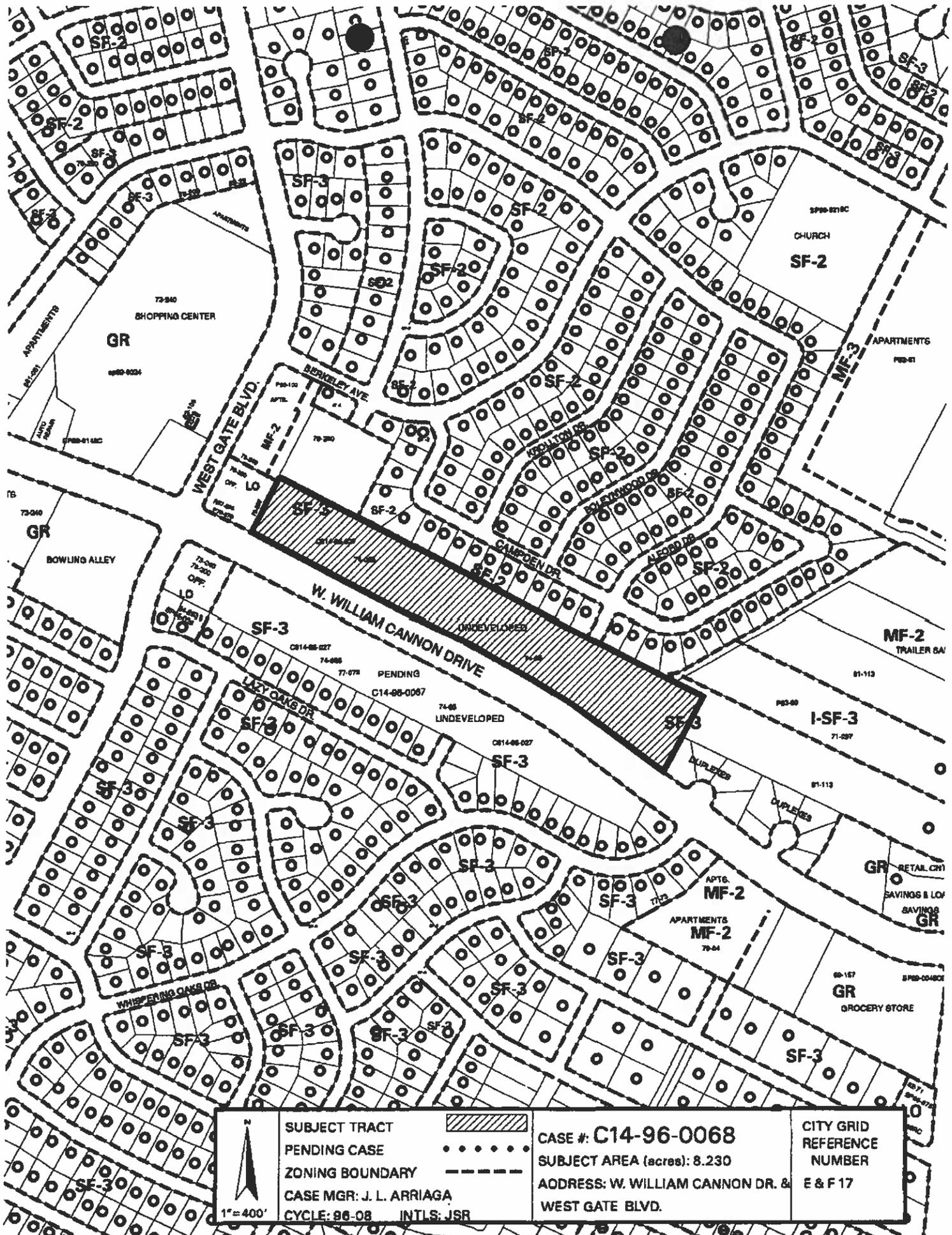


Andrew Martin  
City Attorney

ATTEST:



James E. Aldridge  
City Clerk



SUBJECT TRACT  
 PENDING CASE  
 ZONING BOUNDARY  
 CASE MGR: J. L. ARRIAGA  
 CYCLE: 96-08 INTLS: JSR



CASE #: C14-96-0068  
 SUBJECT AREA (acres): 8.230  
 ADDRESS: W. WILLIAM CANNON DR. &  
 WEST GATE BLVD.

CITY GRID  
 REFERENCE  
 NUMBER  
 E & F 17

**SUMMARY STAFF RECOMMENDATION:**

The Staff's recommendation is to grant limited office – conditional overlay (LO-O) combining district zoning. The Conditional Overlay prohibits access to Aldford Drive and limits the number of daily vehicle trips to 2,509.

If the requested zoning is recommended for this site, then Staff recommends a Restrictive Covenant to include all recommendations listed in the Traffic Impact Analysis memorandum, dated July 8, 2010, as provided in Attachment A.

**BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)**

*1. The proposed zoning should be consistent with the purpose statement of the district sought.*

LO zoning is intended for office use predominantly serving the neighborhood or community needs, such as professional, semi-professional and medical offices, which may be located within or adjacent to residential neighborhoods. The proposal meets the purpose statement set forth in the Land Development Code. The subject property is adjacent to a neighborhood that is largely single family.

*2. Zoning changes should promote an orderly and compatible relationship among land uses.*

Following an evaluation of the Applicant's traffic impact analysis, the Staff recommendation contained in Attachment A includes increasing the number of daily vehicle to 2,509 with the requirement to post fiscal surety for the pro rata share of an additional east bound left turn lane at the West Gate Boulevard / West William Cannon Drive intersection. The number of daily vehicle trips and intersection improvements from this development will maintain acceptable traffic conditions on adjacent roadways and intersections, and therefore, the Staff recommends the Applicant's request.

**EXISTING CONDITIONS****Site Characteristics**

The subject property is developed with eight buildings containing a mix of medical and office space. There appear to be no significant topographical constraints on the site.

**Impervious Cover**

The maximum impervious cover allowed by the *LO zoning district* is 70%, which is based on the more restrictive watershed regulations. The approved site plan approved on June 4, 2007, allows for 65.5 percent impervious cover (SP-06-0462C).

### **Environmental**

The site is partially located over the Edwards Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is in the Williamson Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

According to flood plain maps, there is a floodplain within or adjacent to the project boundary. Based upon the close proximity of flood plain, offsite drainage should be calculated to determine whether transition zone exists within the project location. If transition zone is found to exist within the project area, allowable impervious cover within said zone should be limited to 30%.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands

Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:

- Structural controls: Sedimentation and filtration basins with increased capture volume and 2 year detention.

### **Transportation**

A traffic impact analysis is required and has been received. Additional right-of-way, participation in roadway improvements, or limitations on development intensity may be recommended based on review of the TIA [LDC, Sec. 25-6-142]. Comments are provided in Attachment A.

**Water and Wastewater**

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at his own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility for compliance with City criteria. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

**Site Plan and Compatibility Standards**

FYI – Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made if a site plan is submitted.

The site is subject to compatibility standards. Along the northern property line, the following standards apply:

- No structure may be built within 25 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- No parking or driveways are allowed within 25 feet of the property line.
- A landscape area is required along the property line. In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
- Additional design regulations will be enforced at the time a site plan is submitted.

FYI – This site is located within the future planning area of Garrison Park. For more information on the status of this neighborhood plan, please visit:

[http://www.ci.austin.tx.us/planning/neighborhood/garrison\\_park.htm](http://www.ci.austin.tx.us/planning/neighborhood/garrison_park.htm).



**Date:** July 8, 2010  
**To:** Wendy Rhoades, Case Manager  
**CC:** Robert J. Halls, AICP, Robert J. Halls & Associates  
**Reference:** Stonegate Two, C14-2010-0034

The Transportation Review Section has reviewed the Traffic Impact Analysis for the Stonegate Two TIA (aka Arbor at Stonegate), dated February 2010, prepared by Joan G. Hudson Consulting, Inc. and Robert J. Halls Associates, and offers the following comments:

### **TRIP GENERATION**

Stonegate Two is a 75,000 square foot retail development located in south Austin on the north side of William Cannon Drive, between West Gate Boulevard and Manchaca Road.

The property is currently under construction and it is partially occupied with a mix of medical and professional offices. The existing zoning is Limited Office – Conditional Overlay (LO-CO). The applicant has requested a zoning change to remove the conditional overlay which currently limits vehicle trips to less than 2,000 unadjusted trips per day.

The current plans for the site call for a mixture of office space with up to 85% medical office and up to 15% professional office. Based on the standard trip generation rates established by the Institute of Transportation Engineers (ITE), the development will generate approximately 2,509 unadjusted average daily trips (ADT).

The table below shows the trip generation by land use for the proposed development:

<b>Table 1. Trip Generation</b>						
			<b>AM Peak</b>		<b>PM Peak</b>	
<b>LAND USE</b>	<b>Size</b>	<b>ADT</b>	<b>Enter</b>	<b>Exit</b>	<b>Enter</b>	<b>Exit</b>
Medical Office	60,775	2,270	119	32	54	145
Professional Office	10,725	239	28	4	15	75
<b>Total</b>		<b>2,509</b>	<b>147</b>	<b>36</b>	<b>69</b>	<b>220</b>

### **ASSUMPTIONS**

1. Traffic growth rates provided by CAMPO were as follows:

<b>Table 2. Growth Rates per Year</b>	
<b>Roadway Segment</b>	<b>Annual %</b>
William Cannon Drive	2.0
Brodie Lane	2.0
West Gate Boulevard	2.0

**ATTACHMENT A**

Whispering Oaks Drive	0.5
Manchaca Drive	2.0

2. In addition to these growth rates, background traffic volumes for 2011 included estimated traffic volumes for the following projects:
  - 6500 Manchaca SP-2009-0165C (SP-2008-0278C)
3. No reductions were taken for pass-by trips.
4. No reductions were taken for internal capture.
5. No reductions were taken for transit use.

### **EXISTING AND PLANNED ROADWAYS**

**William Cannon Drive** – William Cannon Drive is an arterial roadway that is currently built as a four lane divided section with additional improvements at various intersections in the study area. The CAMPO Mobility 2030 Plan shows a planned widening to a six lane section east of Brodie Lane, but no widening of the roadway was assumed by 2011 in the study. The roadway is included in the City's Bicycle Plan.

**Brodie Lane** – Brodie Lane is an arterial roadway that is currently built as a four lane divided section in the study area. The CAMPO Mobility 2030 Plan does not show any planned widening with the study area. The roadway is included in the City's Bicycle Plan.

**West Gate Boulevard** – West Gate Boulevard is an arterial roadway that is currently built as a four lane divided section in the study area. The CAMPO Mobility 2030 Plan does not show any planned improvements within the study area. The roadway is included in the City's Bicycle Plan.

**Manchaca Road** – Manchaca Road is an arterial roadway that is currently built as a four lane divided section in the study area. The CAMPO Mobility 2030 Plan shows a planned widening of the roadway to a six lane divided section south of William Cannon Drive; however, no widening is planned to occur by 2011. The roadway is included in the City's Bicycle Plan.

**Whispering Oaks Drive** – Whispering Oaks Drive is a residential collector street that extends from William Cannon Drive to Manassas Drive. No improvements were assumed for the roadway. It is not included in the City's Bicycle Plan.

### **INTERSECTION LEVEL OF SERVICE (LOS)**

The TIA analyzed six intersections, three of which are or will be signalized. Existing and projected levels of service are as follows, assuming that all improvements recommended in the TIA are built:

Intersection	2005 Existing		2008 Site + Forecasted	
	AM	PM	AM	PM
Brodie Lane/William Cannon Drive*	C	F	C	E
West Gate Boulevard/William Cannon Drive*	D	E	D	E

Whispering Oaks Drive/William Cannon Drive				
▪ EB Left	B	B	B	B
▪ WB Left	B	B	A	B
▪ NB Left/Thru/Right	C	D	B	C
▪ SB Left/Thru/Right	D	C	C	C
Manchaca Road/William Cannon Drive*	D	D	D	D
Driveway 1/ William Cannon Dr.: ▪ SB Right			B	B
Driveway 2/William Cannon Dr.: ▪ SB Right			B	B
Driveway 3/ William Cannon Drive:				
▪ EB Left	B	B	B	B
▪ WB Left	B	C	A	B
▪ NB Left/Thru/Right	C	E	B	C
▪ SB Left/Thru/Right	D	C	C	F
Driveway 4/ William Cannon Drive: ▪ SB/Right	B	B	B	B

\* = SIGNALIZED

## **RECOMMENDATIONS**

- 1) Prior to 3<sup>rd</sup> reading at City Council, fiscal is required to be posted for the following improvements:

<b>Intersection</b>	<b>Improvements</b>	<b>Pro Rata Share (%)</b>
West Gate Boulevard and William Cannon Drive	Construct additional EB Left turn for L-L-T-TR	3.3

EB=Eastbound WB=Westbound NB=Northbound SB=Southbound

- 2) Joint access is required to be provided between all commercial lots.
- 3) Final approval from ATD ~ Signals is required prior to 1<sup>st</sup> Reading.
- 4) For information: Two copies of the final version of the TIA incorporating all corrections and additions must be submitted prior to final approval of the zoning case.
- 5) Development of this property should be limited to uses and intensities which will not exceed or vary from the projected traffic conditions assumed in the TIA, including peak hour trip generations, traffic distribution, roadway conditions, and other traffic related characteristics.

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If you have any questions or require additional information, please contact me at 974-2628.

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**Shandria Jarvis**  
Sr. Planner ~ Transportation Review Staff  
City of Austin – Planning and Development Review Department



## MEMORANDUM

**To:** Fiscal Officer  
Planning & Development Review

**From:** Shandrian Jarvis  
Planning & Development Review Department

**Date:** August 11, 2010

**Subject:** Stonegate Two  
Case No. C14-2010-0034  
Fiscal Surety

### Fiscal Requirements:

Intersection	Improvements	Total Cost	Pro Rata Share %	Pro Rata Share \$
West Gate Boulevard and William Cannon Drive	Construct additional EB Left Turn for L-L-T-TR	\$162,254	3.3%	\$5,354.38
<b>TOTAL</b>		<b>\$162,254</b>		<b>\$5,354.38</b>

Fiscal estimates provided/sealed by Alan Hughes, P.E. on July 28, 2010.  
The fiscal for these improvements is required to be posted prior to 3<sup>rd</sup> Reading of the zoning case.

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If you have any questions or require additional information, please do not hesitate to call me at 974-2628.

Shandrian Jarvis, Senior Planner  
Planning & Development Review Department  
Land Use Review Division/One Stop Shop/Transportation Review Section

Alan C. Hughes, P.E.  
Transportation Engineering

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MEMORANDUM

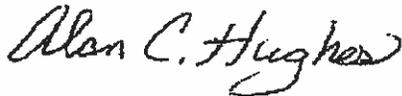
To: Robert J. Halls, AICP  
From: Alan C. Hughes, P.E.  
Date: July 28, 2010  
Subject: Stonegate Cost Estimate

A cost estimate has been developed for the installation of an additional left turn lane for eastbound traffic on William Cannon Drive at its intersection with Westgate Boulevard. This will convert the existing single left turn lane to a dual left turn lane at this location. The estimate is based on field observations only and was done without the benefit of a survey. The estimate does include the relocation of an overhead electric illumination pole as well as a traffic signal closed circuit camera and pole.

The total cost estimate is \$162,254. The 3.3% pro rata share amount is therefore \$5,354.38.

The details of the cost estimate are attached. Please let me know if you have any questions.

Sincerely,



Alan C. Hughes, P.E.  
Transportation Engineering

attachment

**Alan C. Hughes, P.E.**  
Transportation Engineering

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Cost estimate for additional eastbound left turn lane at the intersection of William Cannon Drive and Westgate Boulevard.

Item	Quantity	Unit	Unit Cost	Total
Remove Curb and Gutter	250	LF	\$11	\$2,750
Street Excavation 20"	2223	CY	\$14	\$31,122
12" Flexible base	1334	CY	\$24	\$32,016
HMAC 3.5" Type "C"	334	SY	\$11	\$3,674
HMAC 3.5" Type "D"	334	SY	\$11	\$3,674
Install Curb and Gutter	250	LF	\$20	\$5,000
Relocate Signal Camera Pole	1	EA	\$20,000	\$20,000
Relocate Luminary Pole	1	EA	\$20,000	\$20,000
				\$118,236
Engineering, Surveying, Inspection, and Testing (33%)				\$39,018
Traffic Control				\$5,000
			Total	\$162,254
		3.3% pro rata share		\$5,354.38

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57-2  
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**DECLARATION OF PROTECTIVE COVENANTS**

This declaration is made this 11<sup>th</sup> day of September, 1996, by the owners of that certain property more specifically described in Exhibit "A" (the Owners).

Witnesseth

WHEREAS, the Owners own that certain property fronting on William Cannon Drive in Austin, Texas, (the Property) more specifically described in Exhibit "A" attached hereto and made a part of this declaration; and

WHEREAS, the Owners desire to adopt a uniform plan for the orderly development of the Property and wish to insure the preservation of that plan to protect and enhance the value of the Property for the benefit of the present and future owners of portions of the Property, and

WHEREAS, the Owners have filed a rezoning application with the City of Austin, Texas for the purpose of rezoning the Property from SF-3, Single Family Residence District to LO, Limited Office district or LO-CO, Limited Office Conditional Overlay district; and

WHEREAS, the Owners have sought the support of the Southwest Austin Neighborhood Association (hereinafter the "Association" or "SWANA") for the rezoning application; and

WHEREAS, the Association has agreed to support the rezoning of the Property from SF-3, Single Family Residence District to LO, Limited Office district or LO-CO, Limited Office Conditional Overlay district, subject to the adoption of a uniform plan of development and declaration of restrictive covenants; and

WHEREAS, the Owners and the Association desire to evidence their agreement in the form of restrictive covenants recorded in the real property records of Travis County, Texas;

NOW THEREFORE, Owners hereby adopt, and impose the following restrictions, covenants and conditions upon the Property which shall constitute covenants running with the land and shall be binding upon and inure to the benefit of and be a burden on Owners, their successors and assigns, and each Owner of any portion of the Property and each owner of property within 300 feet of the Property and each such owner's successors and assigns; and the Property shall be held, conveyed and occupied subject to the restrictions, covenants and conditions set forth herein.

ATTACHMENT B  
PRIVATE  
RESTRICTIVE COVENANTS

**Property Use, Construction Standards and Restrictions**

1. No buildings on the Property may exceed one story or eighteen feet in height. Building height shall be measured in accordance with Section 13-2-1 of the Austin City Code, or any successor regulations adopted by the City (from an elevation derived from the average of the highest and lowest grades adjacent to the building).

2. That portion of the property described in Exhibit B attached hereto and made a part of this declaration is hereby designated as an undisturbed greenbelt area (the Greenbelt). Except for those improvements relating to utility service and a new privacy fence, described in Sections 3 and 4 of this declaration (the Excepted Improvements), no development shall be permitted on the Greenbelt. If the Owners of the Property or any part thereof attempts to construct or build any improvements in the Greenbelt other than the Excepted Improvements, the owner of the property sharing a property line with the Property may require that Owner to remove the prohibited improvements from the Greenbelt at the sole cost of that Owner. However, notwithstanding anything to the contrary herein, the Owners of the Property (or any applicable part thereof) are obligated to perform or cause to be performed minor maintenance within the portion of the Greenbelt Area owned by said Owners, said maintenance to include the periodic removal of dead or dying trees, refuse, and dead animals. In no event shall such minor maintenance be construed to allow structures or parking within the Greenbelt Area.

3. For purposes of the definition of Excepted Improvements, the phrase "utility service" shall mean underground water and wastewater pipes, electrical lines, gas lines and any other underground public utility lines, and shall not include detention ponds, or any other similar above surface improvements and facilities. Any Owner of the Property who shall construct any underground utility lines within the Greenbelt shall (1) exercise such Owner's best efforts to preserve the natural vegetation and growth within the Greenbelt and (2) restore any area of the Greenbelt that has been disturbed by the construction of utility lines to a condition reasonably equivalent to its original state.

4. Before development of the Property, Owners of the Property shall install a 6 foot wooden privacy fence along the rear property line of the Property (the line of the Property separating the Property from adjacent residential property). If a privacy fence already exists along said rear property line, the Owners of the Property shall install a new privacy fence on the Property immediately adjacent to the existing fence. To the extent legally permissible, the Owners shall strive to ensure that, despite differences in ground elevation on portions of the Property, the finished height and profile of the new privacy fence for the entire Property shall be as uniform as reasonably possible. The intent of the preceding sentence is to afford the owners of residential property to the rear of the Property the benefit of uniform six-foot high privacy fence despite small differences in elevation on the Property and the Owners acknowledge that such intent may involve the use of longer fence posts or longer fence slats to accommodate differences in elevation on the Property. Maintenance of the new privacy fence shall be the responsibility of the Owner of the respective portion of the Property upon which the new privacy fence is located.

5. Development of the Property shall be limited to the following uses:

- a. Administrative and Business Offices
- b. Medical Offices
- c. Professional Offices
- d. Software Development
- e. Special Use Historic
- f. Communication Service Facilities
- g. Cultural Services
- h. Local Utility Services
- i. Religious Assembly
- j. Safety Services
- k. Group Home Class I (Limited)
- l. Group Home Class I (General)
- m. Group Home Class II

Definitions for the above uses shall be as defined in Chapter 13-2 of the 1992 Austin City Code or any successor law adopted by the City.

The definitions for the above uses as currently provided for in Chapter 13-2 of the 1992 Austin City Code are as follows:

(a) Administrative and Business Offices means the use of a building or a portion of a building for the provision of executive, management, or administrative services. Typical uses include administrative offices and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, photocopy and reproduction, and business offices of public utilities, organizations and associations, or other use classifications when the service rendered is that customarily associated with administrative office services.

(b) Medical Offices means a use providing consultation, diagnosis, therapeutic, preventive, or corrective personal treatment services by doctors, dentists, medical and dental laboratories or similar practitioners of medical and healing arts for humans licensed for such practice by the State.

(c) Professional Offices means a use providing professional or consulting services in the fields of law, architecture, design, engineering, accounting, and similar professions.

(d) Software Development means development and testing of computer software packages including magnetic disks, tapes and associated operating manuals and software duplication. This definition explicitly excludes printing, distribution, and software manufacturing.

(e) Specific Use Historic means a use which satisfies all of the following:

- (1) The structure and land use are zoned historic.

- (2) The property is zoned and operated by a non-profit entity.
- (3) The property is directly accessible from a street which a minimum of 40 ft. of paving.
- (4) The site has a minimum of 43,560 sq. ft. of contiguous land area.
- (5) At least 80% percent of the required parking is onsite.
- (6) Offsite parking has been approved by the Transportation Review Section of the Department of Planning and Development, or its successor in function.
- (7) No single commercial use occupies more than 25% percent of the gross floor area, and civic use is occupied at least 50% percent of the gross floor area.
- (8) There is no discrimination on the basis of race, color, religion, sex, national origin, sexual orientation, age, or physical disability in leasing of the property.

(f) **Communication Service Facilities** means a facility or use of building or structure to provide for the transmission, transfer, and distribution of telephone service and related activities.

(g) **Cultural Services** means a library, museum, or similar registered nonprofit organizational use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

(h) **Local Utility Services** means services which are necessary to support principal development and involve only minor structures such as lines and poles

(i) **Religious Assembly** means a use located in a permanent or temporary building and providing regular organized religious worship and religious education incidental thereto, but excluding private, primary or secondary educational facilities, community recreational facilities, day care facilities, and parking facilities. A property tax exemption obtained pursuant to State law shall constitute prima facie evidence of religious assembly use.

(j) **Safety Services** means facilities for conduct of public safety and emergency services, including police and fire protection services and emergency medical and ambulance services.

(k) **Group Home Class I (Limited)** means a family-based facility providing 24-hour care in a protective living arrangement for not more than six residents and two supervisory personnel. The classification includes foster homes, congregate living facilities for persons 60 years of age or older, and maternity homes. This classification also includes a home for persons with any physical or mental impairments not listed in the definition for family home use, as well as a home for persons with impairments listed in the definition of family home when the family home is located within one-half mile of a previously existing family home use. Persons with physical or mental impairments are persons whose impairments substantially limit one or more of such person's major life activities who have a record of such impairment or who are regarded as having such impairment, as defined in 29 U.S.C. Section 706(8)(B).

(l) Group Home Class I (General) means a family-based facility providing 24-hour care in a protective living arrangement for not more than six but no more than fifteen residents and not more than three supervisory personnel. This classification includes foster homes, homes for the physically and mentally impaired, homes for the developmentally disabled, congregate living facilities for persons 60 years of age or older, and maternity homes. This classification also includes emergency shelter during crisis intervention for not more than fifteen victims of crime, abuse or neglect, and residential rehabilitation for alcohol and chemical dependence for fifteen or fewer individuals.

(m) Group Home Class II means a family-based facility providing 24-hour care in a protective living arrangement for not more than fifteen residents and not more than three supervisory personnel. This classification includes homes for juvenile delinquents, halfway houses providing residence in lieu of institutional sentencing, and halfway houses providing residence to those needing correctional and mental institutionalization.

6. The Owners hereby acknowledge that there is no intention on their part to use any of the Property for the uses defined above as Group Home Class I (Limited), Group Home Class I (General), and Group Home Class II. The Owners acknowledge that the only reason such uses appear on the list of permissible uses of the Property in Section 5, above, is that they have been advised that excluding such uses is not legally permissible.

7. All dumpsters and any permanently placed refuse receptacles shall be located a minimum of 50 ft. from the rear boundary line of the Property.

8. Exterior finishes for all buildings constructed on the Property must contain at least 50 percent stone, stucco or other masonry. Exterior building materials with high gloss finishes or of bright primary, or other high intensity colors shall be prohibited. Highly reflective building surfaces or roofing materials shall be prohibited. All buildings and materials shall be generally consistent as to colors and materials, and sharp contrasts of colors or materials shall be prohibited.

9. Ingress and egress for the Property shall be limited to William Cannon Drive. All driveways shall be permanently paved. All parking lots shall be paved, curbed and internally drained.

10. Lighting fixtures shall be located so as to minimize glare onto adjacent properties. Exposed flood lighting on or from buildings walls, signs, or trees shall not be permitted. No sign, either temporary or permanent, on any portion of the Property, shall use flashing, blinking, intermittent or moving light or other source of illumination, nor shall any sign create or attempt to create the effect of flashing, intermittent, or moving light or other source of illumination by mechanical or other means.

11. No temporary structure of any kind shall be erected or placed upon the Property except as hereinafter provided. Any builder or developer employed by an Owner to construct improvements on the Property may conduct its construction operations and activities on the Property and, in connection therewith, do all things reasonably necessary to most expeditiously

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

commence, continue and complete such construction operations, specifically including, but not limited to, construction and maintenance of temporary buildings or trailers for storage of construction materials and equipment and open storage or uncovered building material. All construction operations and storage shall be confined solely within the boundaries of the Property. All temporary structures shall be removed and cleared from the Property with ten days of the completion of construction.

12. All non-paved space outside of the Greenbelt shall remain as nearly possible in its natural state or shall be landscaped. Each Owner, contemporaneously with the completion of the building improvements upon a portion of the Property, shall complete the landscaping of any portion of the Property not left in its natural state, including the planting of hedges, shrubs and trees and installation of appropriate irrigation.

13. Increase of surface stormwater drainage onto adjacent property is prohibited. Control of stormwater runoff is the responsibility of each Owner and shall be controlled in the manner and at the rates established by the City of Austin.

14. Impervious cover shall be limited to 67.5 percent of the surface of the Property.

15. No Owner of the Property may sell a portion of the Property in a lot smaller than 32,500 square feet.

16. No illegal, noxious or offensive activity or nuisance of any kind shall be conducted or permitted on the Property. No use shall be permitted that is offensive by reason of odor, fumes, vibrations, dust, smoke, vision, bright light, radiation, noise or pollution, or that is hazardous by reason of excessive danger of fire or explosion or that causes the discharge of toxic or noxious matter in such concentration as to be detrimental to or endanger the public health, safety or welfare or cause injury to the surrounding property or its residents or that causes or produces a nuisance as to any other portion of the Property. Outdoor loudspeakers are prohibited.

#### General Provisions

17. The obligations of Owners are expressly contingent upon a final approval of the rezoning of the Property from "SF-3" to "LO," Limited Office district or "LO-CO," Limited Office-Conditional Overlay district by the City Council of Austin, Texas.

18. The Owners and the Association stipulate, covenant, and agree that there is privity of estate between the Owners of the property and the owners of each lot within 300 feet of the Property and that the covenants, conditions, and restrictions herein are and shall be deemed and considered to be real covenants running with the land and shall be binding on the Owners, the Association, each owner of a lot within 300 feet of the Property and their respective heirs and assigns.

19. These covenants may be enforced by the Owners, the Association, and each owner of a lot within 300 feet of the Property and their respective heirs and assigns. No failure to exercise, and no delay in exercising any right hereunder shall operate as a waiver thereof, nor shall any

single or partial exercise thereof preclude any other further exercise thereof or the exercise of any other right.

20. If any person entitled to enforce these covenants undertakes procedures in law or in equity to prevent or terminate their violation, such person shall be entitled to seek injunctive relief, damages, and such other relief as may be available at law or in equity. The prevailing party in any action arising in connection with these covenants shall be entitled to receive reasonable attorneys' fees.

21. In the event any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or lack of enforceability shall not affect any other provision hereof.

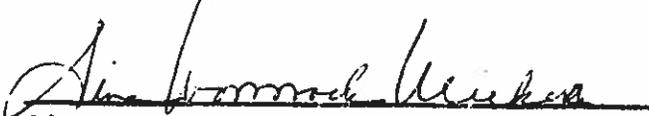
22. The covenants and restrictions within these declarations shall run with and bind the Property. These covenants may not be amended or modified, nor may any of the terms hereof be waived, except by written instruments signed by the Owner and 75 percent of the owners of property within 300 feet of the Property. These covenants shall be effective for a term of forty years from the date hereof, after which time they shall be automatically extended for successive ten-year periods, unless terminated or amended by a written instrument signed by the Owners and 75 percent of the owners of property within 300 feet of the Property and recorded in the Real Property Records of Travis County, Texas.

23. By acceptance of a deed or by the acquiring of any ownership interest in any portion of the Property, each person or entity for himself or itself, his heirs, personal representatives, successors, and assigns binds himself, his heirs, personal representatives, successors, and assigns to all of the provisions, restrictions, covenants and conditions imposed by this declaration, and any future amendments thereto. Notwithstanding anything to the contrary contained in this Agreement, any Owner of all or any portion of the Property shall not have any liability or obligation with respect to a violation of the declaration by any other Owner.

24. "Owner" and "Owners" shall mean any current or future record owner, whether one or more persons or entities, to the fee simple title to any portion of the Property.

25. "Association" or "SWANA" means the Southwest Austin Neighborhood Association, the neighborhood association whose boundaries include the Property or any successor organization.

**OWNERS**

  
Diane Wommack Wicker

*Virginia Gail Wommack*

Virginia Gail Wommack Williams

*Williams*

*Diane W. Wicker*

Diane W. Wicker, as a Co-Trustee of the Tom Houston Daniel 1987 Trust; Matthew John Williams 1987 Trust; Virginia Ford Williams 1987 Trust; and Catherine Campbell Williams 1987 Trust

*Gail Wommack Williams*

Gail Wommack Williams, as a Co-Trustee of the Tom Houston Daniel 1987 Trust; Matthew John Williams 1987 Trust; Virginia Ford Williams 1987 Trust; and Catherine Campbell Williams 1987 Trust

*John S. Burns, Jr.*

John S. Burns, Jr.

*William H. Burns*

William H. Burns

*Hallie Houston Burns Eads*

Hallie Houston Burns Eads

*James A. Hill*

James Abraham Hill

*Malone Vincent Hill*

Malone Vincent Hill

David Gaffey Ford  
David Gaffey Ford

Anne Russell Ford Parrigin  
Anne Russell Ford Parrigin

Mark Rylander  
Phillip Mark Rylander, as the Independent Executor  
of the Estate of Norman Rylander, Deceased

Eleanor G. Ford Little  
Eleanor G. Ford Little, Individually and as a Co-  
Trustee of the David D. Ford Testamentary Trust,  
for the benefit of Eleanor G. Ford Little

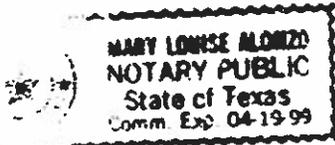
Kris Horduff  
Frost National Bank of San Antonio (successor to  
City National Bank of Austin); as a Co-Trustee of the  
David D. Ford Testamentary Trust, for the benefit of  
Eleanor G. Ford Little

Kris Horduff  
Frost National Bank of San Antonio (successor to  
City National Bank of Austin), as Trustee of the Don  
Russell Rylander Testamentary Trust, for the benefit  
of Joan Elaine Loffland Rylander

Cynthia Ford Brown  
Cynthia Ford Brown

STATE OF TEXAS §  
                                          §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 29th day of August, 1996, by Diane Wommack Wicker.



Mary Louise Alonzo  
Notary Public in and for  
the State of Texas

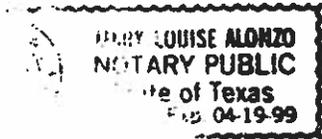
MARY LOUISE ALONZO  
Notary Public Typed or Printed Name

My Commission expires:

4-19-99

STATE OF TEXAS §  
                                          §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 31st day of August, 1996, by Virginia Gail Wommack Williams.

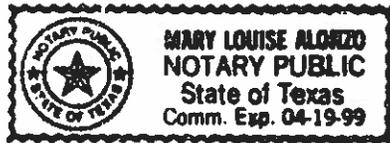


Mary Louise Alonzo  
Notary Public in and for  
the State of Texas

MARY LOUISE ALONZO  
Notary Public Typed or Printed Name

My Commission expires:

4-19-99



STATE OF TEXAS     §  
                                  §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on the 29<sup>th</sup> day of August, 1996, by Diane W. Wicker, as a Co-Trustee of the Tom Houston Daniel 1987 Trust; Matthew John Williams 1987 Trust; Virginia Ford Williams 1987 Trust; and Catherine Campbell Williams 1987 Trust.



Mary Louise Alonzo  
Notary Public in and for  
the State of Texas

MARY LOUISE ALONZO  
Notary Public Typed or Printed Name

My Commission expires:

4-19-99

STATE OF TEXAS     §  
                                  §  
COUNTY OF TRAVIS   §

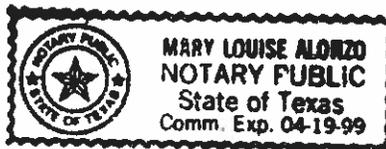
This instrument was acknowledged before me on the 29<sup>th</sup> day of August, 1996, by Gail Wommack Williams, as a Co-Trustee of the Tom Houston Daniel 1987 Trust; Matthew John Williams 1987 Trust; Virginia Ford Williams 1987 Trust; and Catherine Campbell Williams 1987 Trust.

Mary Louise Alonzo  
Notary Public in and for  
the State of Texas

MARY LOUISE ALONZO  
Notary Public Typed or Printed Name

My Commission expires:

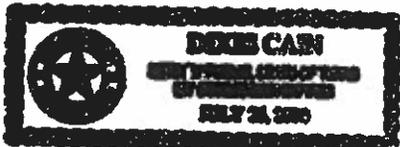
4-19-99



STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 30 day of August, 1996, by John S. Burns, Jr..



Dixie Cain  
Notary Public in and for  
the State of Texas

Dixie Cain  
Notary Public Typed or Printed Name

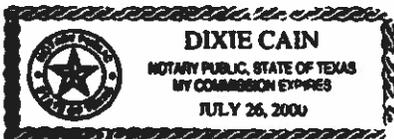
My Commission expires:

7-26-2000

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 30 day of August, 1996, by William H. Burns.



Dixie Cain  
Notary Public in and for  
the State of Texas

Dixie Cain  
Notary Public Typed or Printed Name

My Commission expires:

7-26-2000





STATE OF TEXAS §  
                                          §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 30 day of August, 1996, by Anne Russell Ford Parrigin.



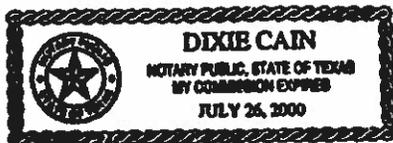
Dixie Cain  
Notary Public in and for  
the State of Texas

Dixie Cain  
Notary Public Typed or Printed Name

My Commission expires:  
7-26-00

STATE OF TEXAS §  
                                          §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 10 day of September, 1996, by Phillip Mark Rylander, as the Independent Executor of the Estate of Norman Rylander, Deceased.



Dixie Cain  
Notary Public in and for  
the State of Texas

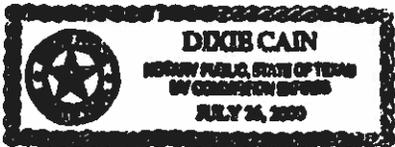
Dixie Cain  
Notary Public Typed or Printed Name

My Commission expires:  
7-26-00

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

STATE OF TEXAS     §  
                                  §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on the 30 day of August, 1996, by Eleanor G. Ford Little, Individually and as a Co-Trustee of the David D. Ford Testamentary Trust, for the benefit of Eleanor G. Ford Little.



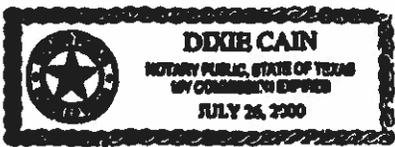
Dixie Cain  
Notary Public in and for  
the State of Texas

Dixie Cain  
Notary Public Typed or Printed Name

My Commission expires:  
7-26-00

STATE OF TEXAS     §  
                                  §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on the 30 day of August, 1996, by Frost National Bank of San Antonio (successor to City National Bank of Austin); as a Co-Trustee of the David D. Ford Testamentary Trust, for the benefit of Eleanor G. Ford Little.



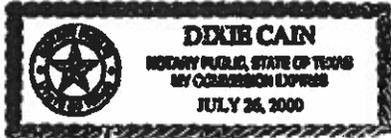
Dixie Cain  
Notary Public in and for  
the State of Texas

Dixie Cain  
Notary Public Typed or Printed Name

My Commission expires:  
7-26-00

STATE OF TEXAS     §  
                                  §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on the 11 day of September, 1996, by Frost National Bank of San Antonio (successor to City National Bank of Austin), as Trustee of the Don Russell Rylander Testamentary Trust, for the benefit of Joan Elaine Loffland Rylander.



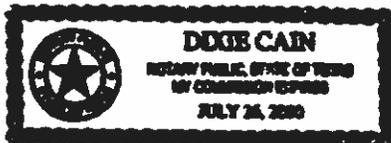
Dixie Cain  
Notary Public in and for  
the State of Texas

Dixie Cain  
Notary Public Typed or Printed Name

My Commission expires:  
7-26-00

STATE OF TEXAS     §  
                                  §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on the 30 day of August, 1996, by Cynthia Ford Brown.



Dixie Cain  
Notary Public in and for  
the State of Texas

Dixie Cain  
Notary Public Typed or Printed Name

My Commission expires:  
7-26-00

# EXHIBIT "A"

## BUSH SURVEYING, INC.

1904 Fortview Road  
Austin, Texas 78704  
Phone (512) 442-0888  
Fax (512) 442-1084

JUNE 18, 1996

FIELD NOTE DESCRIPTION OF 8.311 ACRES OF LAND OUT OF THE THEODORE BISSELL LEAGUE IN TRAVIS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN (6.800 ACRE) TRACT OF LAND DESCRIBED AS "TRACT IX", AND AS CONVEYED TO JOHN S. BURNS, JR., ET AL, BY DEED RECORDED IN VOLUME 7769 PAGE 556 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" Iron rod found in the North right-of-way line of William Cannon Drive for the Southwest corner of Lot 1, Shier Cliff -I, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 47 Page 84 of the Plat Records of Travis County, Texas, and for the Southeast corner of that certain (8.223 acre) tract of land described as "Tract II" and as conveyed to John S. Burns, Jr., et al, by deed recorded in Volume 7769 Page 556 of the Deed Records of Travis County, Texas, and being the Southeast corner and PLACE OF BEGINNING of the herein described tract, and from which a 1/2" iron rod found in the South right-of-way line of William Cannon Drive for the Northwest corner of Lot 1, Block I, Whispering Oaks -I, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 47 Page 87 of the Plat Records of Travis County, Texas, and for the Northeast corner of that certain (6.800 acre) tract of land described as "Tract I", and as conveyed to John S. Burns, Jr., et al, by deed recorded in said Volume 7769 Page 556 bears S 25 deg. 43' 00" W 121.57 ft.;

THENCE with the North right-of-way line of William Cannon Drive and the South line of said Burns (8.223 acre) tract, the following three (3) courses and distances;

- 1) N 51 deg. 36' 05" W 332.95 ft. to a round-headed bolt found for a point of curvature;
- 2) along a curve to the left with a radius of 1970.08 ft. for an arc length of 294.33 ft. and which chord bears N 55 deg. 31' 04" W 294.26 ft. to a round-headed bolt found for a point of tangency;
- 3) N 60 deg. 11' 00" W 1030.85 ft. to a 1/2" Iron rod found for the Southeast corner of Lot 1, Cherry Creek Commercial III-E, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 79 Page 285 of the Plat Records of Travis County, Texas, and for the Southwest corner of said Burns (8.223 acre) tract, and being the Southwest corner of this tract, and from which a 1/2" iron rod found in the South right-of-way line of William Cannon Drive for the Northeast corner of Block C, Cherry Creek Commercial III, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 69 Page 22 of the Plat Records of Travis County, Texas, and for the Northwest corner of the aforementioned Burns (6.800 acre) tract, bears S 25 deg. 27' 16" W 120.00 ft.;

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

12786 0018

Page 2  
8.211 acres

THENCE with the East line of said Lot 1, Cherry Creek Commercial III-E, and with the West line of said Burns (8.223 acre) tract, N 29 deg. 23' 28" E 197.68 ft. to a 1/2" iron rod found in concrete for the Northeast corner of said Lot 1 and for the Northwest corner of said Burns (8.223 acre) tract, and being the Southwest corner of that certain (2.043 acre) tract of land as conveyed to Carlo J. Mazzucco by deed recorded in Volume 11315 Page 1114 of the Real Property Records of Travis County, Texas, and being the Northwest corner of that certain (19.39 acre) tract of land as conveyed to Austex Development Co., Ltd., by deed recorded in Volume 3787 Page 1285 of the Deed Records of Travis County, Texas, same being the Northwest corner of this tract, and from which a 1/2" iron rod found for an angle corner in the East line of Lot 3, Cherry Creek Commercial III-E, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 63 Page 185B of the Plat Records of Travis County, Texas, and in the West line of said Mazzucco (2.043 acre) tract, bears N 29 deg. 18' 00" E 20.66 ft.;

THENCE with the North line of said Burns (8.223 acre) tract and the North line of said Austex Development Co., Ltd. (19.39 acre) tract and with the South line of said Mazzucco (2.043 acre) tract, S 48 deg. 42' 26" E 307.47 ft. to a 1/2" iron rod found for the Southeast corner of said Mazzucco (2.043 acre) tract, and from which a 1/2" iron rod found for the Southwest corner of Lot 3, Block M, Cherry Creek Phase III, Section Two, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 62 Page 96 of the Plat Records of Travis County, Texas, bears N 29 deg. 08' 22" E 18.22 ft.;

THENCE continuing with the North line of said Burns (8.223 acre) tract and with the North line of said Austex Development Co., Ltd. (19.39 acre) tract, the following two courses and distances;

- 1) S 60 deg. 39' 49" E 1191.42 ft. to a 60D nail set in a root between two 4" Elm trees for an angle corner;
- 2) S 64 deg. 28' 00" E 158.50 ft. to a 1/2" iron rod found in concrete for the Northeast corner of said Burns (8.223 acre) tract and for the Northeast corner of said Austex Development Co., Ltd. (19.39 acre) tract, and being an angle corner of that certain (116.912 acre) tract of land as conveyed to J.B. Ford, et al, by deed recorded in Volume 3699 Page 603 of the Deed Records of Travis County, Texas, and being an angle corner in the West line of Lot 4, C.T. Baker Subdivision, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 6 Page 120 of the Plat Records of Travis County, Texas, same being the Northeast corner of this tract, and from which a 1/2" iron rod found for the westerly Southwest corner of said Lot 4 and for the Southernmost corner of a "Private Lane" as shown on said subdivision plat of recorded in Volume 6 Page 120, and also being the Southeast corner of Lot 25, Cherry Creek Phase III Section Four, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 63 Page 68 of the Plat Records of Travis County, Texas, and also being an angle corner of said Ford (116.912 acre) tract, bears N 58 deg. 41' 40" W 104.33 ft.;

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

12786 0019

Page 3  
8.211 acres

THENCE with the East line of said Burns (8.223 acre) tract and the East line of said Austex Development Co., Ltd. (19.59 acre) tract and the West line of said Lot 4, S 30 deg. 02' 44" W 155.28 ft. to a 1/2" iron rod found in concrete for the southerly Southwest corner of said Lot 4 and the Northwest corner of the aforementioned Lot 1, Shier Cliff - 1, same being an angle corner of this tract;

THENCE with the East line of said Burns (8.223 acre) tract and the East line of said Austex Development Co., Ltd. (19.59 acre) tract and the West line of said Lot 1, Shier Cliff - 1, S 30 deg. 31' 12" W 138.95 ft. to the PLACE OF BEGINNING, containing 8.211 acres of land.

SURVEYED: May 29, 1956.



J. Leroy Bush  
Registered Professional Land Surveyor No. 1828

512118



REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

12786 0020

## **EXHIBIT B**

### **GREENBELT**

The Greenbelt shall be a 30 foot wide strip of the Property adjacent to and running parallel to the rear boundary line of the Property. The rear boundary line of the Property shall be the boundary line separating the Property from the adjacent single family residential property fronting on Campden Drive.

After recording, return original to:

Henry H. Gilmore  
Jenkins & Gilchrist  
600 Congress, Suite 2200  
Austin, Texas 78701  
(512) 499-3800

RECORDER'S MEMORANDUM-At the time of  
recording this instrument was found to be inadequate  
for the best photographic reproduction, because of  
illegibility, carbon or photo copy, discolored paper,  
etc. All blockouts, additions and changes were present  
at the time the instrument was filed and recorded.

**FILED**  
96 OCT -4 PM 1:14  
DANA DEBEAUVOIR  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

STATE OF TEXAS COUNTY OF TRAVIS  
I hereby certify that this instrument was FILED on  
the date and at the time stamped herein by me, and  
was duly RECORDED, in the Volume and Page of the  
Public RECORDS of Travis County, Texas, on

OCT 4 1996



*Dana DeBeauvoir*  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

RECEIPT#: A00043217 TRANSA#: 46775 DEPT: REGULAR RECORD 157.00  
CASHIER: BAFRI FILE DATE: 10/4/96 TRANS DATE: 10/4/96  
PAID BY: CASH, CHECK# 803612

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

12786 0022

**PUBLIC HEARING INFORMATION**

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However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

[www.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development)

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2010-0034

Contact: Wendy Rhoades, 512-974-7719

Public Hearing: Aug. 3, 2010, Zoning & Platting Commission  
Aug. 26, 2010, City Council

BARBARA E. JOHNSON

Your Name (please print)

2403 Campden

Your address(es) affected by this application

[Signature]

Signature

7.27.10

Date

Daytime Telephone: 512-397-3002

Comments:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you use this form to comment, it may be returned to:

City of Austin  
Planning & Development Review Department  
Wendy Rhoades  
P. O. Box 1088  
Austin, TX 78767-8810

## PUBLIC HEARING INFORMATION

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Case Number: C14-2010-0034

Contact: Wendy Rhoades, 512-974-7719

Public Hearing: Aug. 3, 2010, Zoning & Platting Commission  
Aug. 26, 2010, City Council

Claudia N. Wenzel

Your Name (please print)

6909 Barwood Dr  
Your address(es) affected by this application

Chmenezel

Signature

Daytime Telephone: 512 441 3285

Date

7-25-2010

I am in favor  
 I object

Comments: Strongly object! 500 more cars is absurd. They should have done the math better when they originally submitted the plan to the city. As a reminder, traffic from this project impacts the Wm. Cannon/Westgate intersection. Except for the fact more trees should have been SAVED, the project is attractive and well done. No more pollution from 500 additional cars, please!

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Wendy Rhoades

P. O. Box 1088

Austin, TX 78767-8810

Thank you

## PUBLIC HEARING INFORMATION

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Case Number: C14-2010-0034

Contact: Wendy Rhoades, 512-974-7719

Public Hearing: Aug. 3, 2010, Zoning & Planning Commission

Aug. 26, 2010, City Council

Michael + Veronica Ruppert  
Your Name (please print)

2312 Aldford Rd Austin TX 78745  
Your address(es) affected by this application

Michael Ruppert  
Signature

8-7-10  
Date

Daytime Telephone: 512-296-7549

Comments: We are not against development per say, but  
we approved the building of offices which had windows  
facing/overlooking people's backyard! Their privacy is  
gone, value of property declines (who wants a 2 storyed  
office Bld. with windows looking into their backyard?) would  
you like that? That affects the entire neighborhood, I  
feel sorry for those people whose homes face these 2 storyed  
office buildings with windows looking down on them, who  
approved that? The builder should be forced to close those  
windows and restore those  
homeowners privacy,  
property value...

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Wendy Rhoades

P. O. Box 1088

Austin, TX 78767-8810

Michael Ruppert

<input type="checkbox"/> I am in favor
<input checked="" type="checkbox"/> At object

## PUBLIC HEARING INFORMATION

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Case Number: C14-2010-0034

Contact: Wendy Rhoades, 512-974-7719

Public Hearing: Aug. 3, 2010, Zoning & Platting Commission  
Aug. 26, 2010, City Council

Michael RUPPRECHT  
Your Name (please print)

2302 Campden DR Austin, TX 78745  
Your address(es) affected by this application

Michael Rupprecht  
Signature

8-7-10  
Date

512-296-7549  
Daytime Telephone:

Comments: My major objection to the development is who/how where they allowed to have windows in the offices facing/overlooking people's backyard. Would you want an office building with windows facing your private backyard - where everyone can see everything you do? These are 2 story Bldg in a neighborhood that is only single story homes, so these office windows overshadow your backyard. It devalues your home, eliminates any privacy and reduces your resale value.

If you use this form to comment, it may be returned to:

City of Austin  
Planning & Development Review Department  
Wendy Rhoades  
P. O. Box 1088  
Austin, TX 78767-8810

Michael Rupprecht

**PUBLIC HEARING INFORMATION**

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Case Number: C14-2010-0034

Contact: Wendy Rhoades, 512-974-7719

Public Hearing: Aug. 3, 2010, Zoning & Platting Commission  
 Aug. 26, 2010, City Council

ZANE MCCARTHY  
 Your Name (please print)

I am in favor  
 I object

2411 CAMPOSE DR 78745  
 Your address(es) affected by this application

  
 Signature

Daytime Telephone: 512-659-0045  
 Date

Comments: BUCKINGS SEEM MORE THAN 18 FEET HIGH. HAS TWO STORIES WITH WINDOWS TOO CLOSE TO FENCE. TOO MANY TREES NEAR. IN CLEAR VIZOR ZONE OF 1622 CLUBHOUSE COURT. CONSTRUCTION @ 5 AM 7 DAYS A WEEK ~~and off~~ include holidays. Very noisy and disruptive. Request for info.

If you use this form to comment, it may be returned to:

City of Austin  
 Planning & Development Review Department  
 Wendy Rhoades  
 P. O. Box 1088  
 Austin, TX 78767-8810

**Rhoades, Wendy**

---

**From:** Gwyn Walters [mailto:gwyn@sbcbglobal.net]  
**Sent:** Tuesday, August 03, 2010 12:47 PM  
**To:** Rhoades, Wendy  
**Subject:** RE: Postponement Request for Case #C14-2010-0034

We agree to a non-discussion 2-week postponement to August 17, 2010. Thanks.

Gwyn Walters

--- On Tue, 8/3/10, Rhoades, Wendy <Wendy.Rhoades@ci.austin.tx.us> wrote:

From: Rhoades, Wendy <Wendy.Rhoades@ci.austin.tx.us>  
 Subject: RE: Postponement Request for Case #C14-2010-0034  
 To: "Gwyn Walters" <gwyn@sbcbglobal.net>  
 Date: Tuesday, August 3, 2010, 12:01 PM

Hi Gwyn,

The Applicant's agent Jim Bennett is agreeable to a 2-week postponement (8-17-10), but not until September 7th. As it stands, this will be a discussion-postponement item at the ZAP meeting tonight, with a representative of the neighborhood outlining their reasons for the 7th of September and the Applicant contesting the length of postponement.

Please let me know if you have any questions.

Wendy

---

**From:** Gwyn Walters [mailto:gwyn@sbcbglobal.net]  
**Sent:** Tuesday, August 03, 2010 12:06 AM  
**To:** Rhoades, Wendy  
**Cc:** bbaker5@austin.rr.com; trabago@austin.rr.com; donna.zap@gmail.com; sbald@sbcbglobal.net; gbourgeois@jonescarter.com; prseeger@austin.rr.com  
**Subject:** Postponement Request for Case #C14-2010-0034

Ms. Rhoades,

Please consider this email a postponement request for case #C14-2010-0034, 2500 W. Wm. Cannon Dr, for the Zoning and Platting Commission public hearing scheduled for 8-3-10. I would like to postpone the Zoning and Platting Commission public hearing until September 7, 2010 in order to provide adequate time to contact my neighbors to discuss what their preferred course of action may be relating to the proposed zoning change. Unlike many neighborhoods, ours does not have a neighborhood association, the existence of which would facilitate communication among residents.

The development at 2500 W. Wm. Cannon is subject to a private restrictive covenant which, it would appear, that the developer has breached due to the construction of two-story buildings (prohibited under the restrictive covenant) and to the construction of building taller than

8/3/2010

eighteen feet (again, prohibited under the restrictive covenant). It seems that the second story of these buildings is what triggered the need to increase the trip limit and thus the zoning case. There has been a significant turnover in ownership of properties in the immediate area and many of these new residents are not aware that they are parties to this restrictive covenant.

I would like to note that, for whatever reason, neither the applicant nor his agent could not be bothered to contact either myself or any of my neighbors about the proposed zoning change.

Thank you for your assistance in this matter,  
Gwyn Walters  
441-9618

**Rhoades, Wendy**

---

**From:** Jeff Howard [jhoward@mcleanhowardlaw.com]  
**Sent:** Monday, August 16, 2010 4:31 PM  
**To:** Rhoades, Wendy  
**Cc:** Sean Cummings  
**Subject:** Item No. 4 8/17 ZAP Agenda; C14-2010-0034  
**Attachments:** Stonegate Letter - final 081610.pdf

Wendy,

Enclosed is a letter I have prepared which responds to an email you recieved from Gwynn Walters in this case. As my letter inidicates, Ms. Walters is incorrect. The buildings for this project are in fact (1) 18 feet in height or less, (2) only one story (with attic) as determined after careful and thorough consideration by staff, and (3) not the reason for the rezoning request (which is only being requested to have a greater percentage of medical office use).

Please add this letter to the case back up and provide to the Zoning and Platting Commissioners. Thank you.

Jeffrey S. Howard  
McLean & Howard, LLP  
Barton Oaks Plaza, Building II  
901 South MoPac Expressway, Suite 225  
Austin, Texas 78746  
Telephone (512) 328-2008  
Facsimile (512) 328-2409  
[www.mcleanhowardlaw.com](http://www.mcleanhowardlaw.com)

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McLEAN & HOWARD, L.L.P.

Barton Oaks Plaza, Building II  
901 South MoPac Expressway  
Suite 225  
Austin, TX 78746  
phone 512.328.2008  
fax 512.328.2409  
www.mcleanhowardlaw.com

August 16, 2010

Mr. Sean Cummings  
Templar Development & Construction, Inc.  
P.O. Box 162258  
Austin, TX 78716

RE: Stonegate Re-Zoning; C14-2010-0034;  
*Project Compliance with Restrictive Covenant*

Dear Sean:

I am in receipt of an email from Gwynn Walters to Wendy Rhodes dated August 3, 2010, which makes incorrect statements about the Stonegate II Office Project at 2500 William Cannon Blvd. (the "Project") and its compliance with that certain Declaration of Restrictive Covenants recorded in Volume 12786, Page 0001 of the Real Property Records of Travis County, Texas (the "Covenant"). For the reasons that follow, the Project is in full compliance with the terms of the Covenant, contrary to Ms. Walter incorrect statements.

The Covenant provides in Section 1, that the Project may not have buildings that "exceed one story or eighteen feet in height" as determined by the Austin City Code. The Project is part of an approved Site Plan (SP-06-0462C), which includes specific building elevations and floor plans, and specifies the "gross floor area" of buildings. The attic area and the height of the buildings have been clearly disclosed in this Site Plan. The neighborhood and neighbors would have been notified of this Site Plan approval per City Code requirements, and no objection to the buildings has ever been made in the past four (4) years. This issue has, however, been thoroughly addressed with City staff which has determined that the attic is NOT a "story" under the Austin City Code.

The confusion in this case comes from recent changes to the City's Electrical Code. The new City Electrical Code has been interpreted by City staff to require a fixed stairway to an attic where a transformer may be located. As a result, for some Units, the individual owners of the units in the project started installing such fixed stairways, but otherwise did not change the use or character of the attic areas as has been constructed and approved in numerous buildings for both the Project and the identical Stonegate I project across William Cannon Blvd. The addition of the fixed stairway caused one City building reviewer to question whether or not the attic was now a "story" requiring a site plan modification. However, after considerable review, discussion, and analysis by numerous City planners, reviewers and managers, the City has concluded that the attic area is NOT a "floor" to be included in "gross floor area" and is, therefore, not a "story" and that a site plan modification is not required. Incidentally, contrary to Ms. Walters' assertion, because the attic area is not being counted as "gross floor area," it is, therefore, not the reason for the re-zoning request to lift the 2,000 trips per day limitation (which is, in fact, being requested to allow more medical office use within the Project which generates greater traffic).

The use of the attic in these buildings is just like the use in which attics are commonly and typically used throughout the City - for storage and the location of equipment (HVAC, transformer,

Mr. Sean Cummings  
Templar Development & Construction, Inc.  
August 16, 2010  
Page 2 of 2

water heater, data and telecommunications). The attics are not being used for office or commercial use. In fact, the Condominium Regime documents for the Project specifically prohibit use of the attic as office use or other space for human occupancy, as follows:

*Use of the attic space assigned to a Unit as that Unit's Limited Common Element, shall be strictly limited to storage purposes and such storage shall only be in connection with the office or business conducted in the Owner's Unit.*

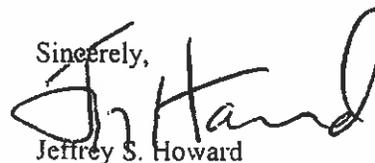
The owner of the Project provides each new owner of Unit in the Project with a disclosure letter that specifically notifies the new owner of this restriction. Moreover, the use of the attic space has been repeatedly verified by City inspectors as not for human occupation or anything other than storage and equipment location. In fact, the City has determined that attic is not permitted to be air conditioned for human occupancy. The attic area is, therefore, both practically and legally, clearly just an attic.

In addition, the attic area constitutes an "attic" according to "Attic Classification" criteria in the City's Building Code (*see letter from Lee T. Alexander, AIA*). Accordingly, the attic area in these buildings is not a "floor" under the City's Land Development Code or considered a part of the "gross floor area". It is not a "story" under the City's Building Code. It is not used as anything other than as an attic, and indeed is legally prohibited from being so used. For these reasons, the attic area is not a "story" under the Austin City Code, and the buildings fully comply with that portion of the Covenant. Ms. Walters's assertion to the contrary is incorrect.

With respect to building height, Section 25-1-21(46) of the Austin City Code specifies that height is measured from the average of the highest and lowest grades adjacent to the building to the "average height" of the highest gable for a pitched or hop roof. The "average height" is determined as the mid point between the highest part of the roof (gable ridge) and the lowest part of the roof (gable eave or plate line). This is a typical method of measuring height for buildings with a pitched roof in land use issues. It also the method specified in the Covenant, which requires that height is determined by the Austin City Code. The height of all of the buildings in the Project meet this requirement in the Austin City Code and, therefore, in the Covenant. Ms. Walters's assertion to the contrary on this point is also incorrect.

For the reasons set forth above, the Project is in compliance with the Covenant's requirements. If Ms. Walters feels otherwise, she is free to seek enforcement of the Covenant; however, her inaccurate claims should have no bearing on the traffic issue raised by the proposed re-zoning.

If you have any questions or comments, please feel free to contact me.

Sincerely,  
  
Jeffrey S. Howard



ALEXANDER + ASSOCIATES

ARCHITECTURE • PLANNING • INTERIORS

Sean Cummings  
Templar Development, Inc.  
P.O. Box 162258  
Austin, Texas 78716-2258

**RE: Re-zoning at Stonegate Two #C14-2010-0034  
Story and height complaints**

Dear Sean,

I have reviewed the complaint regarding height and supposed two story construction at the Stonegate Two development. This issue has been thoroughly documented with the City of Austin Planning and Development Review Department showing the Stonegate Two buildings as single story with attic. After meetings, site visits, and COA Planning and Development Review Department specifically reviewing the Stonegate Two development for compliance with code and development ordinance: The existing site plan records showing single story buildings were determined to be correct.

All office buildings have some type of attic. All single story office buildings with attics can be designed according to code with access stair, pull down access stair, access scuttle, lighting, fire protection, equipment area, and storage. The single story buildings and attics at Stonegate Two are code compliant and the attic is contained above the horizontal projection of the roof within 18'-0" building height. The buildings including the roof are below 18'-0" as determined by the Land Development Code having jurisdiction over this development including surrounding buildings and homes. This average of gable heights is a height determination method common in Texas and industry standard for restrictive covenants, zoning including building code calculation.

**LAND DEVELOPMENT CODE**

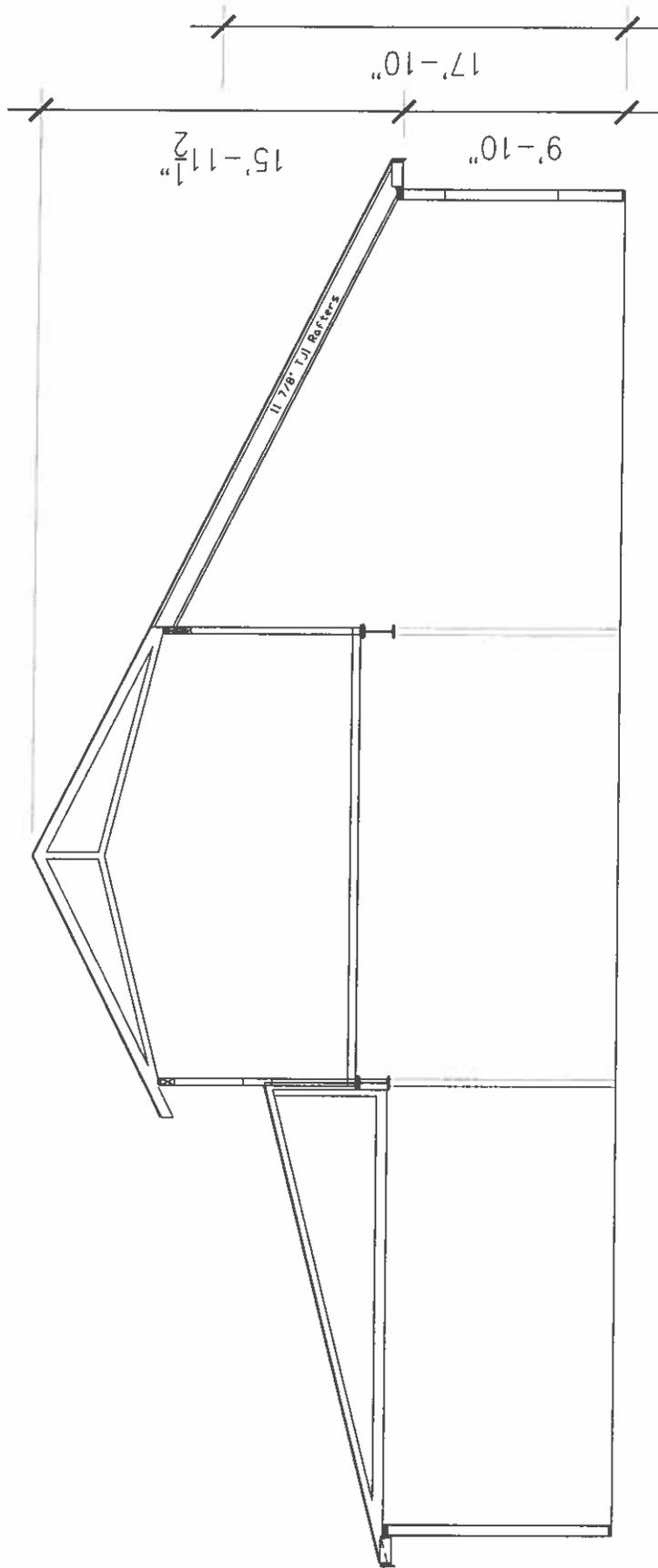
25-1-21 (46C) HEIGHT, when used in reference to a building, means the vertical distance from the average of the highest and lowest grades adjacent to the building to a pitched or hip roof, the average height of the highest gable  
*(Example: if above grade the peak of the roof is at 20 feet (gable ridge) and the eave is at 10 feet (gable eave) the building height is 15'-0")*

The reason this attic area is classified as an attic is there are specific codes for fire safety, ventilation, construction, use, and material for the attic which conflict with the specific codes for a second story. Currently an attic at Stonegate Two attics can be used for HVAC equipment, attic storage, electrical transformer location, water heater location and comm. located in a "readily accessible" location. Florin the COA electrical reviewer will not accept pull down stairs as "readily accessible". The attics need equipment access stairs to the attic in every finishout that locates the transformer in an attic. The transformers will be located in the attic due to the noise and venting requirements. Addition of any type of stair access will exceed the 20"x 30" access opening minimum code requirement. The transformer and comm. room equipment also have special ventilation requirements that require air conditioning. The COA also allows the attic to be used for storage if additional gyp. board as 1 hr fireside fireproofing is added to the construction. The attic area is also limited by draftstopping areas and specific venting requirements. As a second story, none of these code/safety items are required.

Due to the use, code and safety design of the attic area at Stonegate Two, the City of Austin classifies the Stonegate Two buildings as being single story buildings with attics. The City of Austin also allows for equipment and storage uses in the attic area if designed according to code. Authority having jurisdiction, COA Planning and Development Review Department, reviewed the site plan on city record showing single story buildings at Stonegate Two and determined the site plan record does not need to be modified or corrected for these issues.

Yours Truly,

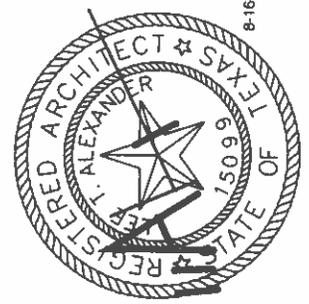
Lee T. Alexander, AIA



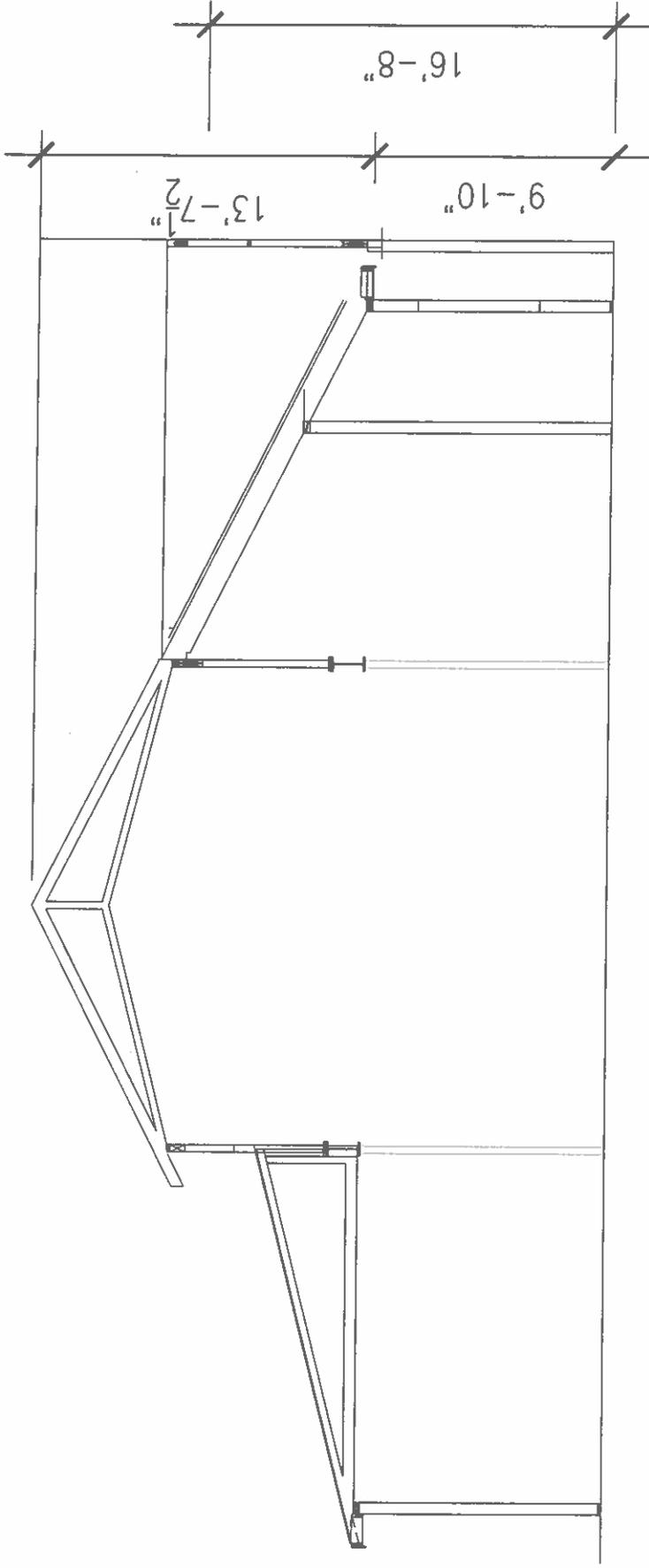
Bldg Height Diagram

SCALE: 3/16"=1'-0"

EXHIBIT DIAGRAM - SECTION  
 Building 1, 7, 8  
 2500 West William Cannon Drive  
 Austin, Texas 78745



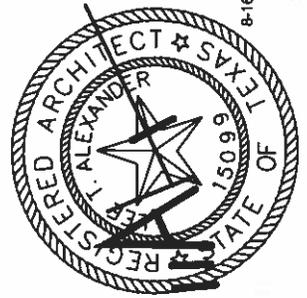
**AA**  
 ARCHITECTURE  
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Bldg Height Diagram

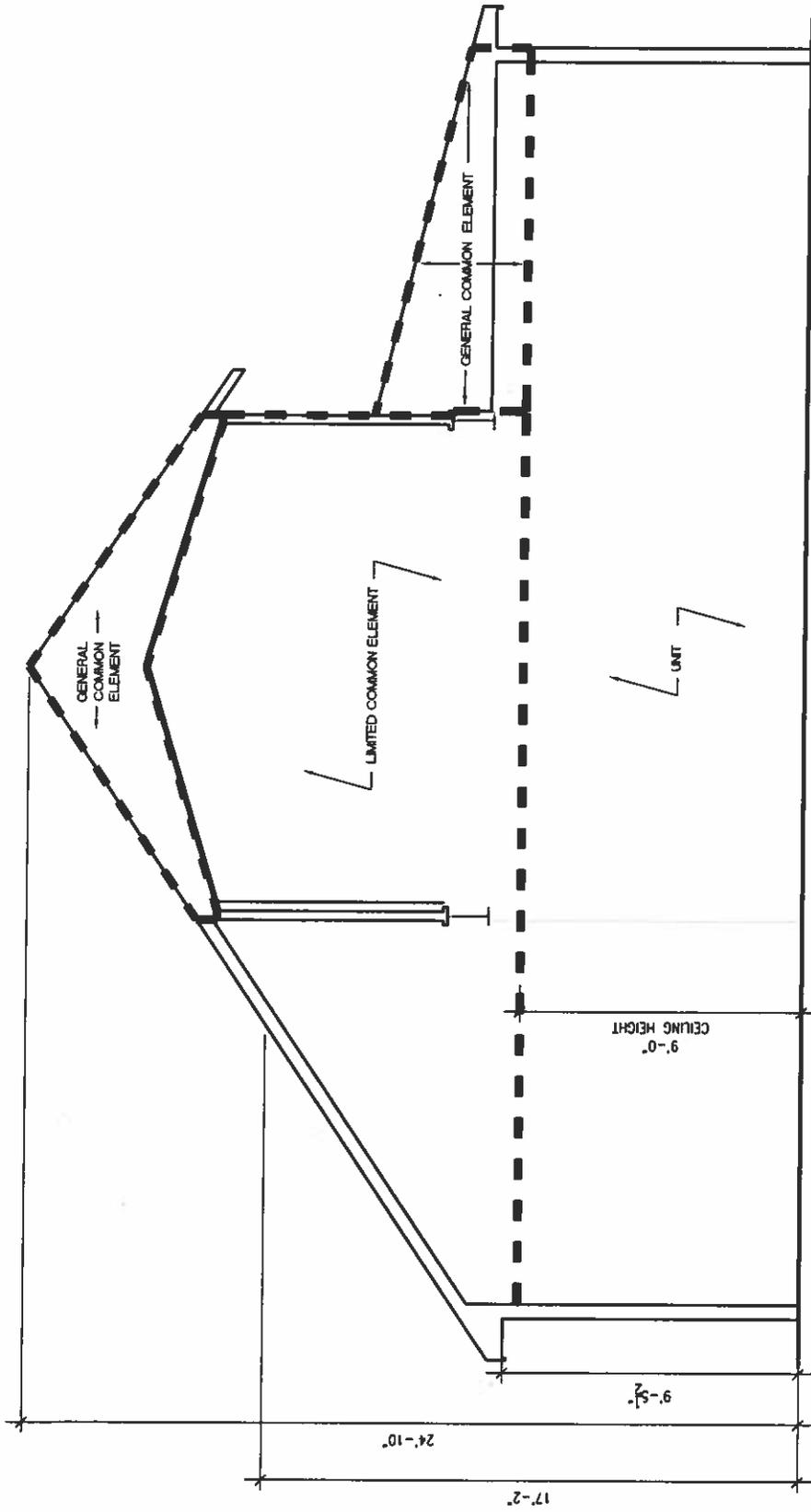
SCALE: 3/16"=1'-0"

EXHIBIT DIAGRAM - SECTION  
 Building 2, 3, 6  
 2500 West William Cannon Drive  
 Austin, Texas 78745



8-16-10

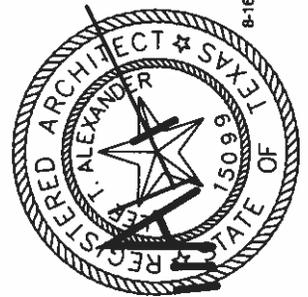
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Bldg Height Diagram

SCALE: 3/16" = 1'-0"

EXHIBIT DIAGRAM - SECTION  
 Building 4, 5  
 2500 West William Cannon Drive  
 Austin, Texas 78745



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**Subject: Pending Re-zoning at Stonegate Two #C14-2010-0034**

To whom it may concern,

I have approached the City about removing the "2,000 trip limitation" which is attached to the zoning for my property located at 2500 West William Cannon. This limitation restricts the tenant mix to about 55% medical and 45% administrative offices. I have petitioned the City of Austin to remove the "2,000 trip limitation" thereby allowing us to increase the number of medical users that will be allowed to purchase in the project. If passed, we will be able to have a mix of about 83% medical and 17% office. This new tenant mix would be based on 1:200 parking for all medical and assumes 1:275 for any administrative office owners. Currently, at about 50% sold out, the tenant mix is approximately 80/20 medical versus office.

I have attached an e-mail that was given to me by Wendy Rhoades, the case manager for the zoning case. So far there are only two persons objecting to the zoning proposal; but only one "in writing", see attached. I have already spoken with Wendy about this case and told her that the claims made in this e-mail are incorrect. She recommended that I make a response in writing to the board as well as make contact with the complainant. This is my effort to do so. I will be submitting my "take" on these issues as well as the comments from my attorney, Jeff Howard and the architect that is doing most of the finish out plans for the new owners, Lee Alexander.

As a side note, Jim Bennett has been assisting me in processing the zoning case for me; a case that I mistakenly thought would not be much of an issue. I am guessing that the current traffic count on William Cannon is around 50,000 to 55,000 cars a day and we are talking about increasing the traffic by about 500 cars a day. This increase in traffic is also spread out over a third of a mile and 4 different driveways. Jim found out in his discussions with Wendy that the person complaining is the wife of Mark Walters who works in the Planning Department. I have attached an e-mail from almost 2 years ago where I addressed these issues with Mr. Walters. I thought that I had adequately addressed his concerns because I had never heard back from him. It has been a couple of years though, so I certainly don't mind running through things again so they will feel better about the project.

First of all, there was a statement made by someone to the effect of: *"for whatever reason, neither the applicant nor his agent could not be bothered to contact either myself or any of my neighbors about the proposed zoning change"*. There is a neighborhood association, the "Southwest Austin Neighborhood Association", and I am assuming they were the ones contacted; they have always been contacted in the past. This was the neighborhood association that originally negotiated the restrictive covenant and I have to assume they were notified, along with the neighbors within 300 feet of the project. This is the first time I have requested such a zoning change and I assumed that the notification of the surrounding land owners was the responsibility of the City when the zoning application was made? I know we posted a number of signs on the property for the required notification. I didn't know there was anything else we were supposed to do. To be perfectly honest, I didn't dream that anyone in the neighborhood would have a problem with changing the traffic limitations because the change doesn't really

adversely affect the neighborhood, as no traffic from the project enters or exits through the neighborhood.

Secondly, the issue regarding the building heights exceeding the 18 foot limitation. Again, this statement is incorrect. The buildings do fit within the allowable limitation of building heights as drawn up in the restrictive covenants. I have attached elevations of each of the 8 buildings on the subject tract. As you can see each of the buildings is less than the 18 foot height limitation as noted per the restrictive covenant.

As far as the second story goes, I have also attached a letter from our attorney that is given to every Buyer at closing. The letter stresses that the attic areas are to only be used for storage (additionally we allow mechanical, electrical and plumbing systems to be located there, like all attics). This letter references the Condominium Declaration, which are essentially the rules and restrictions that govern the ownership of the condominium units. It goes on to state:

***“All uses must additionally comply with Section 10.17 and all restrictive covenants applicable to the Property and all applicable governmental rules, regulations, and ordinances, including zoning regulations and requirements. Use of the attic space assigned to a Unit as that Unit’s Limited Common Element, shall be strictly limited to storage purposes and such storage shall only be in connection with the office or business conducted in the Owner’s Unit.”***

***Any attempts by unit owners to use the attic space for any purpose other than storage is in violation of the Declaration. The Condominium Owner’s Association has the authority and responsibility to enforce this restriction and will do so in the event of a violation.”***

I have had my attorney and architect address the particular concerns of the homeowner, and Staff, regarding the issue of building height and the equipment/storage spaces in the attics. While I have put in my “two cents worth” on these issues, I will also be giving some background on the project so as to give everyone involved a better understanding of the project and its’ history.

I became involved in the William Cannon tracts in late 2000. We put the property at 2501 West William Cannon under contract in 2000 and closed on the south tract in July of 2001. We spent several years working through the site plan and the building designs (and of course were hampered by the recession of 01). Eventually we began construction of the site in 2004 and began selling buildings. The project on the south side consists of 45,000 square feet in 6 separate buildings and is of similar construction and design as the project on the north side of William Cannon, Stonegate Two; except that the current site is much larger and allows for almost 71,000 square feet of office. Both sides are governed by similar zoning and restrictive covenants.

Stonegate One was finished several years ago and we started construction on Stonegate Two in 2007. In both cases the site plans and the building plans were reviewed by the City and were approved for construction.

I believe it is important for both Staff and the neighbors to make sure they are looking at the whole of the project when deciding whether or not they can support the request to increase the allowed traffic to the site. Here are a few issues I would like everyone to consider:

1. Virtually none of the traffic would be traveling through the neighborhood. The Stonegate Two project covers over 8 acres of land over a stretch of over a third of a mile along William Cannon. All four of the driveways that lead out of the project empty directly onto William Cannon. We agreed during the site plan process to leave Aldford Drive, the road that was originally designed to access the neighborhood, blocked off so that no traffic would enter or exit through the neighborhood.
2. We installed a new median cut and turn lanes at the center of the project to cut down on any person leaving the site and having to do a "u-turn" at one of the intersections down the road.
3. The increase in the zoning will allow for more medical users to own property within the project. These are, without a doubt, the most unobtrusive neighbors the neighborhood can have. Most don't open for business until 9:00 am and most are closed by 4:30 or 5:00 in the afternoon. They normally are not open for business on Saturdays or Sundays; so effectively the neighborhood would never even know they are there.

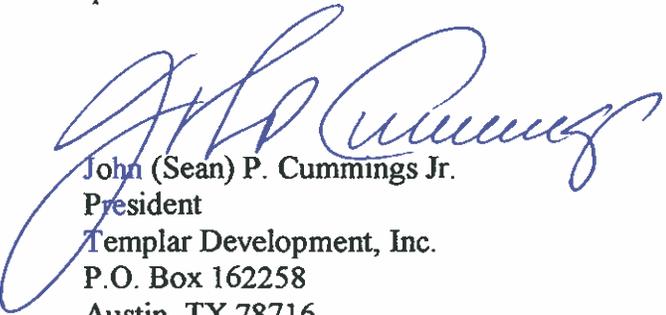
In regards to the questions that have come up during this process regarding the overall construction of the project and how the project "fits" the neighborhood; I would like to point out to both Staff and the neighbors the following:

1. The original "tenants" on the tract were homeless people and kids doing drugs and alcohol. When we cleared the site we removed several "transient camps" as well as other areas where it was obvious kids were hanging out. The entire site was scattered with drug paraphernalia, empty beer cans and liquor bottles. Are we really that bad a neighbor?
2. With the construction of the office project and the detention pond, we have fixed the "run off" problem that some of the neighbors at the west end of the project were experiencing by diverting the water from their back yards to our detention pond.
3. We met with Austin Energy and granted them an easement to access the rear of the property so they could install underground lines to better serve the neighbors. The granting of this easement *was not* a requirement of the site plan. While we did not have to give them the easement, it would have meant Austin Energy removing a large number of trees that were growing on the property line and were too close to existing overhead electric lines. This way the neighborhood kept their trees along the property line; hopefully providing them with increased privacy from my buildings.
4. As a part of our site plan, we agreed to grant easements and help cover the costs to loop the neighborhoods' waterline. This was done to increase the water flow for the neighborhood and improve safety if there was ever a fire. This was expensive. The total investment not counting the easements ran well over \$100,000. It is important to point out that the only group that benefitted from this work being done was the neighborhood to the rear; it did not affect our "water" supply issues at all.
5. We have kept and maintained the 30 foot natural vegetated buffer zone to the rear of the property, most times actually maintaining more than the 30 foot requirement.

6. The quality of construction, in materials, labor and design has done nothing but increase the property values in the area. It might be a good time to remind the neighborhood that what was originally intended to go on the site was duplex and four-plex housing. Had this type of product been built, it is clear the neighborhood would have lost much of the privacy, not to mention their quiet evenings and weekends, it has now with the buildings and owners I have put on the site.
7. We have kept many of the original trees on the site, saving some trees that were originally shown as being removed. All the parking is in front of the offices so the neighbors don't have to put up with any evening traffic noise or lights on the odd circumstance of someone getting to the office early or leaving late.

In short, I believe that if anyone were to look at the project we have put on the site they would find a model neighbor. Obviously, some of our neighbors have been upset by the construction noise. That cannot be avoided. But overall, once the project is completed, I believe Stonegate Two will do nothing but increase the value of the neighborhood and add to the quiet enjoyment the neighborhood is seeking.

I am open to questions and comments. My cell phone, (512) 656-8030 is the most immediate way to contact me and I would offer that number to anyone that wants speak to me with questions or comments. Thanks



John (Sean) P. Cummings Jr.  
President  
Templar Development, Inc.  
P.O. Box 162258  
Austin, TX 78716  
e-mail: [jcummins9@austin.rr.com](mailto:jcummins9@austin.rr.com)  
office : (512) 327-5675

August 16, 2010

Re: Stonegate Two Office Condominiums

To Whom It May Concern:

I am writing on behalf of KC 1 Stonegate, L.P., a Texas limited partnership, Declarant of Stonegate Two Office Condominiums ("Declarant") as formed by the Declaration of Condominium Regime for Stonegate Two Office Condominiums recorded in Document Number 2007190559 of the Official Public Records of Travis County, Texas ("Declaration"). Pursuant to paragraph 10.3 of the Declaration attic space is strictly limited to storage space. Paragraph 10.3 of the Declaration provides:

'10.3. **Commercial Use.** All Units must be improved and used solely for commercial purposes, including, without limitation, medical office or medical treatment, diagnosis evaluation, testing or surgery of any kind, inclusive of such Improvements as are necessary or customarily incident to commercial use. Any use must comply with the applicable zoning of the Property. No Unit or any portion of the Regime may be used for residential use. All uses must additionally comply with Section 10.17 and all restrictive covenants applicable to the Property and all applicable governmental rules, regulations, and ordinances, including zoning regulations and requirements. Use of the attic space assigned to a Unit as that Unit's Limited Common Element, shall be strictly limited to storage purposes and such storage shall only be in connection with the office or business conducted in the Owner's Unit.'

Any attempts by unit owners to use the attic space for any purpose other than storage is in violation of the Declaration. The Condominium Owner's Association has the authority and responsibility to enforce this restriction and will do so in the event of a violation.

Thank you for your attention this matter. Should you have any questions, please feel free to call me.

Sincerely,

William P. McLean

**To:** newurbanist2001@yahoo.com  
**Cc:** Bill McLean; Patrick Hudson  
**Subject:** RE: 2500 Wm Cannon Documents

Mark,

Thanks for the time you allowed me last night to go over the building designs at StoneGate Two. By way of this message I will ask the attorneys handling the contracts and Condo Docs to e-mail you the following items:

- The Condo Docs, specifically the pages dealing with the ability to construct attic storage, heated and cooled if desired in the attic area above the spaces.
- The "Attic Letter" which is provided to prospective Owners as the contract is being negotiated.

As I stated last night, it is the stance of the Owners Association, that the attic spaces must **NOT** be constructed for any use other than storage. The Association does allow for that attic storage space to be heated and cooled, as does the City Code.

As I stated last night, we have only closed on two spaces so far, one has no intentions of even using the attic for storage, only mechanical, and the other does intend to build heated and cooled storage in the attic, but is only installing a pull down staircase, so I am pretty sure it won't be used for anything other than storage.

As I mentioned my cell is 656-8030. Should other questions arise, please do not hesitate to call me.  
Thanks

Sean

John (Sean) P. Cummings Jr.  
President  
Templar Development, Inc.  
155 Riverhills Road  
Austin, TX 78733  
cell (512) 656-8030  
jcummings9@austin.rr.com

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**From:** Mark Walters [mailto:newurbanist2001@yahoo.com]  
**Sent:** Monday, October 06, 2008 11:35 PM  
**To:** jcummings9@austin.rr.com  
**Subject:** 2500 Wm Cannon Documents

Sean,

Thank you for returning my phone call and for the informative discussion of your project. I do feel more comfortable with the situation. As per our conversation, could you please forward me the restrictive covenant and other documents relating to the 2500 W. Wm. Cannon Project?

Thank you,  
Mark Walters